

SENATE BILL 562

E3, E2

2lr2330
CF HB 614

By: **Senators Forehand, Colburn, Jacobs, Kelley, King, Klausmeier, Manno, Ramirez, ~~and Stone~~ Stone, Brochin, and Raskin**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2012

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Sex Crime Victims' Rights Act**

3 FOR the purpose of requiring the Department of Juvenile Services to disclose to a
4 victim or victim's representative the home address, school, or place of
5 employment of a child respondent on probation under certain circumstances;
6 requiring a certain confinement unit to disclose to a victim or victim's
7 representative the home address, school, or place of employment of a child
8 respondent under certain circumstances; specifying that certain provisions of
9 law concerning the confidentiality of juvenile records do not prohibit the
10 disclosures authorized by this Act; and generally relating to victims' rights.

11 BY repealing and reenacting, with amendments,
12 Article – Courts and Judicial Proceedings
13 Section 3–8A–27
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2011 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Procedure
18 Section 11–507 and 11–508
19 Annotated Code of Maryland
20 (2008 Replacement Volume and 2011 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Courts and Judicial Proceedings**

4 3–8A–27.

5 (a) (1) A police record concerning a child is confidential and shall be
6 maintained separate from those of adults. Its contents may not be divulged, by
7 subpoena or otherwise, except by order of the court upon good cause shown or as
8 otherwise provided in § 7–303 of the Education Article.

9 (2) This subsection does not prohibit:

10 (i) Access to and confidential use of the record by the
11 Department of Juvenile Services or in the investigation and prosecution of the child by
12 any law enforcement agency;

13 (ii) A law enforcement agency of the State or of a political
14 subdivision of the State, the Department of Juvenile Services, or the criminal justice
15 information system from including in the law enforcement computer information
16 system information about an outstanding juvenile court ordered writ of attachment,
17 for the sole purpose of apprehending a child named in the writ; or

18 (iii) A law enforcement agency of the State or of a political
19 subdivision of the State from releasing to the public photographs and identifying
20 information of a child who has escaped from a detention center for juveniles or a
21 secure residential facility for juveniles, for the purposes of facilitating apprehension of
22 the child and ensuring public safety.

23 (b) (1) A court record pertaining to a child is confidential and its contents
24 may not be divulged, by subpoena or otherwise, except by order of the court upon good
25 cause shown or as provided in §§ 7–303 and 22–309 of the Education Article.

26 (2) This subsection does not prohibit access to and the use of the court
27 record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal
28 Procedure Article in a proceeding in the court involving the child, by personnel of the
29 court, the State’s Attorney, counsel for the child, a court–appointed special advocate
30 for the child, or authorized personnel of the Department of Juvenile Services.

31 (3) (i) Except as provided in subparagraph (ii) of this paragraph,
32 this subsection does not prohibit access to and confidential use of the court record or
33 fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure
34 Article by the Department of Juvenile Services or in an investigation and prosecution
35 by a law enforcement agency.

1 (ii) The court record or fingerprints of a child described under §§
2 10–215(a)(20) and (21), 10–216, and 10–220 of the Criminal Procedure Article may not
3 be disclosed to:

4 1. A federal criminal justice agency or information
5 center; or

6 2. Any law enforcement agency other than a law
7 enforcement agency of the State or a political subdivision of the State.

8 (4) (i) The Department of Juvenile Services may provide access to
9 and the confidential use of a treatment plan of a child described under Title 10,
10 Subtitle 2 of the Criminal Procedure Article by an agency in the District of Columbia
11 or a state agency in Virginia, if the agency:

12 1. Performs the same functions in the jurisdiction of the
13 agency as described in § 9–216(a) of the Human Services Article;

14 2. Has a reciprocal agreement with the State that
15 provides that the specific information to be shared by the State is the same type of
16 information that will be shared by the agency; and

17 3. Has custody of the child.

18 (ii) A record that is shared under this paragraph may only
19 provide information that is relevant to the supervision, care, and treatment of the
20 child.

21 (iii) The Department of Juvenile Services shall be liable for an
22 unauthorized release of a court record under this paragraph.

23 (iv) The Department of Juvenile Services shall adopt regulations
24 to implement this paragraph.

25 (5) (i) This subsection does not prohibit access to and use of a court
26 record by a judicial officer who is authorized under the Maryland Rules to determine a
27 defendant’s eligibility for pretrial release, counsel for the defendant, the State’s
28 Attorney, or the Maryland Division of Pretrial Detention and Services if:

29 1. The individual who is the subject of the court record is
30 charged as an adult with an offense;

31 2. The access to and use of the court record is strictly
32 limited for the purpose of determining the defendant’s eligibility for pretrial release;
33 and

1 3. The court record concerns an adjudication of
2 delinquency that occurred within 3 years of the date the individual is charged as an
3 adult.

4 (ii) The Court of Appeals may adopt rules to implement the
5 provisions of this paragraph.

6 (6) (i) This subsection does not prohibit access to and confidential
7 use of a court record by the Department of Human Resources for the purpose of
8 claiming federal Title IV–E funds.

9 (ii) The Department of Human Resources shall be liable for the
10 unauthorized release of a court record under this paragraph.

11 (c) The court, on its own motion or on petition, and for good cause shown,
12 may order the court records of a child sealed, and, upon petition or on its own motion,
13 shall order them sealed after the child has reached 21 years of age. If sealed, the court
14 records of a child may not be opened, for any purpose, except by order of the court
15 upon good cause shown.

16 (d) This section does not prohibit access to or use of any juvenile record by
17 the Maryland Division of Parole and Probation or the Maryland Parole Commission
18 when the Division or the Commission is carrying out any of their statutory duties
19 either at the direction of a court of competent jurisdiction, or when the Maryland
20 Parole Commission is carrying out any of its statutory duties, if the record concerns a
21 charge or adjudication of delinquency.

22 (e) This section does not prohibit access to and use of any juvenile record by
23 the Maryland Division of Correction when the Division is carrying out any of its
24 statutory duties if: (1) the individual to whom the record pertains is committed to the
25 custody of the Division; and (2) the record concerns an adjudication of delinquency.

26 (f) Subject to the provisions of §§ 9–219 and 9–220 of the Human Services
27 Article, this section does not prohibit access to or use of any juvenile record for
28 criminal justice research purposes. A record used under this subsection may not
29 contain the name of the individual to whom the record pertains, or any other
30 identifying information which could reveal the individual’s name.

31 (g) **(1)** This section does not prohibit a victim or victim’s representative
32 who has filed a notification request form from being notified of proceedings and events
33 involving the defendant or child as provided in this subtitle, the Criminal Procedure
34 Article, or the Criminal Law Article.

35 **(2) THIS SECTION DOES NOT PROHIBIT THE DISCLOSURE OF THE**
36 **HOME ADDRESS, SCHOOL, AND PLACE OF EMPLOYMENT OF A CHILD AS**
37 **PROVIDED IN § 11–507 OR § 11–508 OF THE CRIMINAL PROCEDURE ARTICLE.**

1 (h) This section does not prohibit the Department of Public Safety and
2 Correctional Services or a supervising authority, as defined in § 11-701 of the
3 Criminal Procedure Article, from accessing or using the part of a juvenile record that
4 identifies an offense committed by a juvenile for purposes of complying with Title 11,
5 Subtitle 7 of the Criminal Procedure Article.

6 **Article – Criminal Procedure**

7 11-507.

8 (A) The Department or the Department of Juvenile Services shall notify the
9 victim or victim's representative of an alleged violation of a condition of probation
10 whenever:

11 (1) a warrant, subpoena, or writ of attachment is issued for the alleged
12 violation for a person who was convicted of a violent crime or who was adjudged to
13 have committed a delinquent act that would be a violent crime if committed by an
14 adult; and

15 (2) a victim of the crime or delinquent act or a victim's representative
16 has submitted a written request to the Department for notification or has submitted a
17 notification request form under § 11-104 of this title.

18 (B) **THE DEPARTMENT OF JUVENILE SERVICES SHALL DISCLOSE TO**
19 **THE VICTIM OR VICTIM'S REPRESENTATIVE THE HOME ADDRESS, SCHOOL, OR**
20 **PLACE OF EMPLOYMENT OF A CHILD RESPONDENT ON PROBATION IF:**

21 (1) **THE DELINQUENT ACT FOR WHICH THE CHILD RESPONDENT**
22 **IS ON PROBATION IS A VIOLATION OF § 3-303, § 3-304, § 3-305, § 3-306, §**
23 **3-307(A)(1) OR (2), § 3-602, OR § 11-303(B) OF THE CRIMINAL LAW ARTICLE;**
24 **AND**

25 (2) **A VICTIM OF THE DELINQUENT ACT OR A VICTIM'S**
26 **REPRESENTATIVE HAS SUBMITTED A WRITTEN REQUEST TO THE DEPARTMENT**
27 **OF JUVENILE SERVICES FOR NOTIFICATION OR HAS SUBMITTED A**
28 **NOTIFICATION REQUEST FORM UNDER § 11-104 OF THIS TITLE.**

29 11-508.

30 (a) (1) In this section the following words have the meanings indicated.

31 (2) "Commitment unit" means a unit that a court orders to retain
32 custody of a defendant or a child respondent and that receives a notification request
33 form under § 11-104(f)(1) or (g) of this title.

1 (3) “Release from confinement” means work release, home detention,
2 or other administrative or statutorily authorized release of a defendant or child
3 respondent from a confinement facility.

4 (4) “Witness” means a person who:

5 (i) knows of facts relating to a crime of violence or conspiracy or
6 solicitation to commit a crime of violence; and

7 (ii) 1. makes a declaration under oath that is received as
8 evidence for any purpose; or

9 2. has been served with a subpoena issued under the
10 authority of a court of this or any other state or of the United States.

11 (b) This section applies to a victim or victim’s representative who has
12 submitted a notification request form under § 11–104 of this title.

13 (c) This section applies if a witness requests in writing that a commitment
14 unit notify the witness in writing of the release from confinement of a defendant or
15 child respondent.

16 (d) On receipt of a notification request form under § 11–104(f)(1) or (g) of this
17 title or a written request from a witness for notification, a commitment unit, if
18 practicable, shall notify the victim, victim’s representative, or witness of:

19 (1) receipt of the notification request form;

20 (2) the date when the defendant or child respondent was placed in the
21 custody of the commitment unit;

22 (3) how to change the address to receive notice for the victim, victim’s
23 representative, witness, or the person to receive notice for the victim; and

24 (4) how to elect not to receive future notices.

25 (e) **(1)** The commitment unit shall notify a victim, victim’s representative,
26 or witness, in advance if practicable, if any of the following events occur concerning
27 the defendant or child respondent:

28 **[(1)] (I)** an escape;

29 **[(2)] (II)** a recapture;

30 **[(3)] (III)** a transfer to another commitment unit;

1 [(4)] (IV) a release from confinement and any conditions attached to
2 the release; and

3 [(5)] (V) the death of the defendant or child respondent.

4 (2) IF ANY OF THE EVENTS SPECIFIED IN PARAGRAPH (1) OF THIS
5 SUBSECTION OCCUR, IN ADDITION TO THE NOTICE REQUIRED UNDER
6 PARAGRAPH (1) OF THIS SUBSECTION, THE COMMITMENT UNIT SHALL
7 DISCLOSE TO THE VICTIM OR VICTIM'S REPRESENTATIVE THE HOME ADDRESS,
8 SCHOOL, AND PLACE OF EMPLOYMENT OF A CHILD RESPONDENT IF THE
9 DELINQUENT ACT FOR WHICH THE CHILD RESPONDENT WAS CONFINED IS A
10 VIOLATION OF § 3-303, § 3-304, § 3-305, § 3-306, § 3-307(A)(1) OR (2), § 3-602,
11 OR § 11-303(B) OF THE CRIMINAL LAW ARTICLE.

12 (f) A commitment unit may not disclose to a defendant or child respondent
13 the address or telephone number of a witness, victim, victim's representative, or
14 person who receives notice for the victim.

15 (g) An elected public official, public employee, or public unit has the
16 immunity described in §§ 5-302 and 5-522 of the Courts Article regarding civil
17 liability for damages arising out of an action relating to this section, unless the official,
18 employee, or unit acts with gross negligence or in bad faith.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.